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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KINTETSU WORLD EXPRESS (U.S.A.), INC.,

Plaintiff,

-v.-

DIALECTIC DISTRIBUTION LLC,

Defendant.

ECF CASE

1:21-CV-09579 (JHR)(JW)

**PLAINTIFF’S FIRST
SUPPLEMENTAL
F.R.CIV.P. 26 DISCLOSURES**

Plaintiff, KINTETSU WORLD EXPRESS (U.S.A.), INC. (“KWE”), by its attorneys, Kennedy Lillis Schmidt & English, provides the following supplemental disclosures in accordance with Fed.R.Civ.P. 26. Plaintiff’s initial disclosures represent a good faith effort to identify information and documents which at this time it reasonably believes may be used to support its claims herein. Plaintiff reserves the right to supplement the Initial Disclosures as necessary and appropriate when further information and/or documents become available.

By making the following disclosures, Plaintiff does not represent that it is identifying every document, tangible thing, or witness may be used in support of its claims. Plaintiff reserves the right to call any witness or present any exhibit or item at trial not listed herein but determined through discovery or further investigation to support its claims.

Plaintiff's initial disclosures are made without waiving the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay, or any other proper ground; and the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures.

1. The name and, if known, the address and telephone number of each individual likely to have discoverable information, along with the subjects of that information: (Contact with representatives of Plaintiff may only be made through its counsel.)

- a. Beniamio Farina, Sales Director of KWE, has knowledge concerning the contractual relationship of the parties; the services undertaken by KWE, the non-payment for which is the subject of this action; the agreement of the Defendant to receive those services at the prices charged by KWE; the Defendant's non-payment for those services; and related matters. Mr. Farina may be contacted through Plaintiff's counsel.
- b. Zachary Zeltzer, member, Dialectic Distribution LLC ("DDLLC"), has knowledge concerning the contractual relationship of the parties; the services undertaken by KWE, the non-payment for which is the subject of this action; the agreement of the Defendant to receive those services at the prices charged by KWE; the Defendant's non-payment for those services; and related matters.
- c. Representatives of Uninations Corporation, whose specific identities are not presently known to KWE, may have information concerning the actual or attempted importation of (a) certain shipment(s) of masks by Defendant via Chicago, as referred to in the Defendant's counterclaim, including communications

with DDLCC, the U.S. Food and Drug Administration, the U.S. Customs and Border Protection. The address of Uninations Corporation is believed to be 67 Walnut Avenue, Suite 303, Clark, NJ; its telephone number is known to DDLCC.

- d. RA Dr. Lothar Harings and RA Max Jürgens have information concerning efforts to obtain refunds of Duty and Taxes paid by KWE on behalf of Defendant. Their address and telephone number is c/o GvW Graf von Westphalen, Poststraße 9 – Alte Post, 20354 Hamburg, FRG; +49 (40) 35922-115.
- e. Olaf Gerber has information concerning efforts to obtain refunds of Duty and Taxes paid by KWE on behalf of Defendant and services provided by KWE to the Defendant. His address and telephone number is c/o Kintetsu World Express (Deutschland) GmbH, World Cargo Center, Niendorfer Straße 172, Norderstedt D-22848, FRG; +49 (0) 405 939 1828.
- f. Stijn Buggenhout has information concerning efforts to obtain refunds of Duty and Taxes paid by KWE on behalf of Defendant and services provided by KWE to the Defendant. His address and telephone number is c/o Kintetsu World Express (Benelux) B.V., Bedrijvenzone Machelen Cargo Gebouw 729/1, Machelen 1830, Belgium; T: +32 (0) 27 52 99 91.
- g. Other representative(s) of the parties, and other third parties identity(ies) to be disclosed when ascertained by Plaintiff's counsel, may have knowledge regarding the nature, defects, misbranding, and value of (a) certain shipment(s) of

masks by Defendant via Chicago, as referred to in the Defendant's counter-claim.

2. A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

- a. Plaintiff's counsel is in possession of copies of invoices whose non-payment is the subject of this action.
- b. Plaintiff's counsel is in possession of copies of the contracts between the parties.
- c. Plaintiff's counsel is in possession of approximately 4,500 pages of email concerning the services provided by KWE to the Defendant and associated matters.

3. A computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

- a. See Exhibit 2 to Plaintiff's First Amended Complaint (ECF 29).

4. A copy of any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

a. None.

Plaintiff has not completed its investigation and reserves the right to amend and supplement these disclosures.

Dated: New York, New York
June 7, 2023

KENNEDY LILLIS SCHMIDT & ENGLISH
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